IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5114 OF 2005

Ms. Meena C. Somaiya ..Applicant

Vs.

State of Maharashtra ..Respondent

Mr. H.V. Bhadbhade for applicant.
Mr. P.A. Pol, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2007.

P.C.:

1. Heard the learned counsel for the applicant who is the complainant in Criminal Case No. 29/SS/2005 before the Metropolitan Magistrate, 14th Court, Girgaon, Mumbai and the said case came to be dismissed on 28/4/2005. The operative part of the said order reads as under:-

> "Both the parties & advocates are absent. Steps have not been taken since 29-10-04. Hence dismissed in default under Section 204(4) of Cr.P.C. Accused discharged. Proceedings closed"

2. The learned counsel for the applicant submitted that all the steps were taken much prior to

29-10-04 and, in fact, the order passed on 29-7-04 indicates that accused were released on RR bond of Rs.15,000/- and the case was transferred by an order dated 9/2/2005. All these issues can be gone into more efficaciously in a revision application under Section 397 of Cr.P.C. by calling for R & P in the criminal case and when such an efficacious remedy is available, this application to invoke the inherent powers under Section 482 of Cr.P.C. need not be entertained. The learned counsel for the applicant, therefore, seeks leave to withdraw the application and approach the Sessions Court with a revision application under Section 397 of Cr.P.C.

3. Leave granted and the application is disposed as withdrawn with liberty to file revision application under Section 397 of Cr.P.C. and if such an application is filed within a period of two weeks from today, the period of pendency of this application from 8/8/2005 till today be taken into consideration for condonation of delay, if any.

(B.H. Marlapalle,J.)